

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

TENNESSEE CLEAN WATER)
NETWORK and TENNESSEE SCENIC)
RIVERS ASSOCIATION,) No. 3:15-cv-00424
)
Plaintiffs,) Judge Waverly Crenshaw
)
v.) Magistrate Judge Holmes
)
TENNESSEE VALLEY AUTHORITY,)
)
Defendant.)

AFFIDAVIT OF C. JASON REPSHER

**COUNTY OF DAVIDSON)
STATE OF TENNESSEE)
)**

I, C. Jason Repsher, after being duly sworn, do hereby depose and, upon personal knowledge, state as follows:

1. I am currently employed as the Field Office Manager for the Division of Solid Waste Management (the Division) at the Tennessee Department of Environment and Conservation (TDEC)'s Nashville Environmental Field Office (NFO) located in Nashville, Tennessee. I have been employed with TDEC as the NFO Field Office Manager for the Division since 2014. I was also employed with TDEC from 1994-1995 as a Geologist 2 with the Division in the Nashville Field Office.

2. I hold a Bachelor of Science in Geology from Austin Peay State University.

3. Prior to my employment with TDEC, from 1992-1994, I worked as a field geologist for PetroTec, Inc. and PSI in Nashville, Tennessee. From 1995-2009, I worked for Gresham Smith and Partners in Nashville, Tennessee, in a number of advancing roles from Staff Geologist to Environmental Program Leader with responsibilities throughout the eastern United States. From 2010-2014, I served as an independent consultant in the southeast region of the United States for various landfill siting, permitting, and compliance activities.

4. As the NFO Field Office Manager, I supervise the Division's solid and hazardous waste inspection personnel at the NFO. I also supervise the review of landfill, composting, transfer station, and processing permit applications for the 13 county area surrounding Nashville, Tennessee. I, along with the permit writer staff, have the primary authority for the review of permitting in the NFO area, which includes Sumner County and the TVA Gallatin Fossil Plant. I supervise the application review, draft permit preparation, peer review meetings, public hearings, response to public comments, and final permit preparation of all solid waste permits for the Division in the NFO region.

5. I am familiar with industrial landfill permit registration number IDL830000219 for the Class II disposal facility known as the North Rail Loop Landfill (NRL) at the TVA Gallatin Facility located in Gallatin, Tennessee (NRL Permit). I was involved in the final permitting process for the NRL. TVA's NRL Permit is attached hereto as Exhibit 1.

6. As part of the permitting process, TVA submitted its permit application to the Division in phases. TVA submitted Part I of the application in June of 2012. TVA submitted Part IIa of the application (hydrogeological investigation) on January 13, 2013, and it was accepted by the Division on April 18, 2013. TVA submitted Part IIb of the application (engineering plans and manuals) on April 12, 2013, and the Division deemed it complete for

technical review on April 22, 2013. The Division issued a Notice of Deficiency to TVA on June 18, 2013, with multiple TVA responses culminating in the issuance of a draft permit in May of 2014.

7. On June 30, 2014, TDEC's Division of Solid Waste Management issued TVA's NRL Permit authorizing the "construction, operation, closure, and post-closure care of a Class II disposal facility . . . for the disposal of coal combustion residuals (CCRs) generated as a result of power generation operations at the Gallatin Fossil Plant." See Exhibit 1.

8. From TVA's first application submission to the Division's issuance of a draft permit, the permitting process for the new NRL Permit took approximately 2 years. This timeline is typical for general permit review timeframes and response times from the applicant.

9. In Part II of its application, TVA provided its plan for construction, advising that the landfill would be constructed "in a series of three cells" and recognized that the facility was being permitted "to accept all types of solid wastes (coal combustion products (CCPs)) generated as a result of power generation operations" at the TVA Gallatin Facility. Excerpts from TVA's Part II Permit Application are attached hereto as Exhibit 2.

10. TVA completed substantial construction of Cell 1 of the NRL on March 11, 2016, with appropriate construction quality assurance (CQA) documentation provided on March 31, 2016. Cell 1 is approximately 18.8 acres and has a disposal capacity of approximately 1.3 million cubic yards. TVA is currently undertaking the initial steps necessary to begin construction of Cell 2 of the NRL. Cell 2 is to be approximately 20.2 acres and has an estimated disposal capacity of approximately 3.4 million cubic yards. See Exhibit 2.

11. The current NRL Permit allows for the disposal of both newly generated CCR material and legacy CCR material currently contained in the historic and active on-site surface

impoundments.

12. I have reviewed the sections in TVA's proposed timeline submitted to the District Court on September 5, 2017, involving the time necessary for obtaining a modified permit from the Division. In its timeline, TVA proposes it will take 4.5 years to permit the expansion of the current NRL disposal facility. See TVA Gallatin Fossil Plant Ash Pond Complex and Non-Registered Site Proposed Timetable for Compliance, Doc. No. 268-1 at PageID #: 10882-85.

13. TDEC has already permitted the NRL, which included a much broader area in the Division's accepted Part IIa (hydrogeological investigation) documentation than what TVA is currently utilizing for the 3 permitted cells of the existing NRL footprint. TVA will need to submit a request for a full lateral expansion of the current permit, however any such request would be to modify the existing permit, not the beginning of an entirely new permit. Additionally, as previously discussed, the entire permitting process for the current NRL Permit took approximately 2 years. Finally, much, if not all, of the hydrogeological, stream, and wetland determinations and other ecological studies have already been completed as part of the initial NRL permitting process.

14. Although the timeframes for the permitting process may vary and can be dependent on submission and response times from the applicant, given these facts I believe it is unlikely that a modification of TVA's existing permit for an expansion of the NRL would take 4.5 years.

15. TVA also states in its proposal that "disposal of excavated material may begin" upon completion of the first cell of the expansion. See Doc. 268-1 Page ID #: 10882. As previously discussed, the current NRL Permit allows for disposal of both newly generated CCR material as well as excavated material.

FURTHER THE AFFIANT SAITH NOT.



C. JASON REPSHER
Field Office Manager
Nashville Environmental Field Office
Division of Solid Waste Management

Sworn and subscribed to me
this 20th day of December, 2017.

My commission expires: 11/5/18.



Kati Hicks
Notary Public



CERTIFICATE OF SERVICE

I hereby certify that the foregoing Affidavit of C. Jason Repsher was filed electronically on December 21, 2017, through the Court's Electronic Filing System. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's electronic filing system.

David D. Ayliffe
Tennessee Valley Authority
General Counsel's Office
400 W Summitt Hill Drive
Knoxville, TN 37919
(865) 632-8964
(865) 632-6718 (fax)
ddayliffe@tva.gov

Lane E. McCarty
Tennessee Valley Authority
General Counsel's Office
400 W Summitt Hill Drive
Knoxville, TN 37919
(865) 632-2396
(865) 632-6718 (fax)
lemccarty@tva.gov

James S. Chase
Tennessee Valley Authority
General Counsel's Office
400 W Summitt Hill Drive
Knoxville, TN 37919
(865) 632-4239
(865) 632-3195 (fax)
jschase@tva.gov

Attorneys for Tennessee Valley Authority

/s Elizabeth A. Alexander
ELIZABETH A. ALEXANDER